
INTERIM STUDY COMMITTEE ON GOVERNMENT



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

Tuesday, October 6, 2015

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2015

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INTERIM STUDY COMMITTEE ON GOVERNMENT

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FINAL REPORT

Interim Study Committee on Government

I. LEGISLATIVE COUNCIL DIRECTIVE

Legislative Council Resolution 15-01 charged the Interim Study Committee on Government to examine the following topics:

- (A) The following concerning public records requests for police body camera video:
 - (1) Whether additional exemptions are needed in the open records law (IC 5-14-3) to prevent the disclosure of private information caught on police body camera video, including interiors of private homes, medical information, juveniles, witnesses, and victims.
 - (2) Restricting the scope and size of public records requests for police body camera video.
 - (3) Restricting the persons and agencies that may obtain police body camera video by making a public records request.
 - (4) Restricting the purposes for which police body camera video may be used.
 - (5) The ability of a public agency to search, redact, and edit police body camera video to remove nondisclosable information.(Source: HR 83; SB 454, as introduced; HB 1225, as introduced).
- (B) The effects of SEA 330-2015 (annexation laws) on economic development projects.
- (C) Reducing the size of the Indiana Code by identifying for repeal statutes that are:
 - (1) obsolete; (2) superseded; or (3) no longer applied. (Source: HEA 1509-2015, as modified by the Personnel Subcommittee of the Legislative Council)

II. INTRODUCTION

The Interim Study Committee on Government is enacted in statute to be a permanent committee that meets to discuss issues concerning state and local government that are assigned by the Legislative Council.

III. SUMMARY OF WORK PROGRAM

In the first two committee meetings, body-worn cameras and potentially obsolete statutes were discussed. Regarding body-worn cameras, testimony was provided in the first meeting concerning how the camera data interacts with public records laws, and in the second meeting, law enforcement and courts provided information.

Regarding obsolete statutes, in the first meeting, the committee looked at specific statutes that are potentially obsolete and considered how to identify obsolete statutes going forward. Feedback from affected agencies and entities about repeal of the potentially obsolete statutes was the topic at the second meeting.

Annexation was the main focus of the third committee meeting. Drafts of legislation for body-worn cameras and obsolete statutes were considered.

IV. SUMMARY OF TESTIMONY

1. Body-Worn Cameras

A. Testimony concerning body-worn camera data raised several issues related to open records and records retention.

- (1) Witnesses indicated that the length of time that a video is retained should be based on the content. The content of the video may have value for investigations, as trial evidence, or it may be used to train or supervise officers. Additionally, the public may have interest in retention of video to provide a basis for a tort claim or to show a pattern of behavior. Testimony indicated video does not need to be retained long term if it does not meet one of the criteria.
- (2) Witnesses discussed the meaning of a video having investigatory value. Some witnesses indicated that the term is broad, while others said that the definition was narrow.
- (3) It was pointed out that some states (Washington) require all video to be made available to the public, while others (South Carolina) do not allow any video to be made available, except through court order.
- (4) The policy adopted by the Oversight Committee on Public Records requires body-worn camera video to be retained 30 days, unless it has evidentiary value. The tort claim filing deadline is 180 days after the incident.
- (5) Body-worn camera video entered into evidence in an Indiana court is subject to Court Rule 7, which does not have a retention schedule.
- (6) Airports reported that IC C 5-14-3-4(b)(19)(k) exempts them from disclosing information that may endanger public safety. The committee was asked to consider updates to the section for new technology and video from body-worn cameras.

B. The number of requests and amount work in redacting body-worn camera video was discussed. Some witnesses indicated that redacting video is a real-time activity, while others indicated that technology is providing solutions to make redacting video less time consuming. One benefit of releasing video, litigation and settlement cost reduction, was discussed as a means of paying for technology costs.

C. Police department representatives from two Indiana jurisdictions presented information on their experience with body-worn cameras. They recommended that recommendations from the committee be applied uniformly across the state. A sheriff requested that there be no rule requiring the use of body-worn cameras. He pointed to community relations and informant confidentiality as concerns.

2. Obsolete Statutes

A. The committee considered how to determine that a statute is obsolete. John Stieff, Director of the Office of Code Revision, described the process used in a 1988 revision of the statute to remove obsolete sections. At that time the staff had to be convinced the section was no longer viable. This meant that if anyone raised any objection, the section was withdrawn from the draft legislation.

B. The committee reviewed the specific statutes that were brought to their attention as potentially being obsolete. Sen. Bray asked staff to contact the agencies and entities involved and provide the committee with the responses. A summary of the potentially obsolete sections and the responses are provided below.

- (1) References to the advisory board of the Division of Professional Standards in IC 20-28.
- (2) IC 5-10-8-6.6, concerning local unit participation in state employee health plans.

The committee received a letter from the State Personnel Department indicating that this was

obsolete.

- (3) The Northern Indiana Regional Transportation District under IC 8-24.

Sen. Niemeyer told the committee that this section was not functional and could not be made functional with simple amendments.

- (4) The concerns about the control of Military Park and University Square under IC 4-19-6.

Sen. Breaux and other witnesses provided testimony that the city of Indianapolis and the state of Indiana (through the Indiana War Memorials Commission) both claim University Square. The city of Indianapolis may provide utilities in the park and the Commission provides maintenance in the park. Legal documents conveying the park to Indianapolis have not yet been found, but legal research is continuing.

- (5) Statutorily required reports to the legislature that have no expiration date.

Ann Naughton provided the committee responses from agencies impacted by these reporting requirements, with indications that many of these reports were obsolete.

3. Annexation

One witness discussed how a voluntary annexation along a highway could be stopped if landowners adjacent to the highway do not approve. Other witnesses provided information on concerns they have for the function of the amendments to the annexation laws made in SB 330.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee added the following finding and recommendations by consent.

- Major changes were made to the annexation laws in the 2015 Legislative Session and the changes took effect on July 1, 2015. The Committee finds that too few annexations have taken place under the amended law to make recommendations for changes at this time.
- Based on the concerns expressed by witnesses about the effects of the changes to the annexation laws, the Committee recommends that this topic be continued into the next interim.

The Committee approved PD 3190, regarding obsolete code, with a vote of 10 to 0. The Committee also approved PD 3259, regarding law enforcement recordings, with a vote of 10 to 0.

The final report was approved by a roll call vote of 10 to 0.

WITNESS LIST

Mmoja Ajabu, After Naked Truth
Luke Britt, Public Access Counselor
Rhonda Cook, Indiana Association of Cities and Towns
Jim Corridan, State Archivist; Public Records Commission
Sean Dean, Office of Corporation Counsel, City of Indianapolis
Aladean DeRose, City of South Bend
Kurt Disser; PAC Fight Against Brownsburg Annexation
Jason Dombkowski, West Lafayette Police Department
Stewart Goodwin, Indiana War Memorials Commission
Sabrina Graham; Brownsburg North Group Against Annexation
Katrina Hall, Indiana Farm Bureau
Jeff Halstead, The Halstead Group, LLC and Taser International
Joseph Heerens, Indianapolis Airport Authority
Jane Henegar, American Civil Liberties Union of Indiana
Ryan Hoff, Association of Indiana Counties
Brad Hoffeditz, Indiana State Police, Legal Counsel
Steve Key, Hoosier State Press Association
Debbie Long, Indianapolis
Steve Luce, Indiana Sheriffs' Association
Maggie Marrocha, City of Elkhart,
Bryan Roach, City of Indianapolis, Department of Public Safety
Larry Siegel, Town of Syracuse
Joe Smith, Faegre Baker Daniels
Tim Troyer, Steuben County
David Wantz, City of Indianapolis, Department of Public Safety
Jeff Wiese, State Court Administration
Chris Wischer, Town of Newburgh